

REMARKS

Introduction:

In the Office Action mailed June 20, 2003, the Examiner rejected claims 1-9 under both 35 U.S.C. §103 and 35 U.S.C. §112, first paragraph. In the Advisory Action mailed November 5, 2003, at page, 2, the Examiner withdrew the rejection of claims 1-9 based on 35 U.S.C. §103, and maintained the rejection of claims 1-9 based on 35 U.S.C. §112, first paragraph.

In the Amendment submitted with the RCE filed December 22, 2003, Applicant submitted new claims 10-12.

Claims 1-12 are pending and under consideration.

Rejections Under 35 U.S.C. §112

In the Office Action mailed June 20, 2003, at page 2, item 2, the Examiner rejected claims 1-9 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains. Applicant respectfully traverses the rejection.

In the Declaration under 37 C.F.R. §1.132 submitted concurrently herewith, Applicant asserts that if provided with the information provided in U.S. patent application 09/944,589, particularly the potential materials of which the encoder is made (The elastic material is made of a material containing rubber as a base material, for example, a heat resistant nitrile rubber, acrylic rubber or fluorine containing rubber, mixed with a powder of magnetic material. For the powder of magnetic material, ferrite may be employed.), and the resulting properties of the encoder (under a thermal endurance test condition in which the magnetized encoder is subjected to 1,000 thermal cycles each consisting of heating at 120°C for one hour followed by cooling at -40°C for one hour, the magnetized encoder retains the following initial magnetic characteristics when measured at a point 2.0 mm distant from a magnetic sensor: Single pitch deviation: $\pm 2\%$ or less and Magnetic flux density: ± 3 mT or higher.), one of ordinary skill in the art would be able to achieve an encoder having a mixing ratio of approximately 85-90% wt% magnetic material, and 10-15% wt% elastic member without undue experimentation.

The handbook submitted as Appendix A, published November 10, 1989, describes a bonded magnet known to be obtainable by mixing a magnetic material with a bond, such as a rubber contained within the range of 2 to 15 wt%, which is similar to the rubber magnet forming the magnetized encoder of the subject application.

Applicant respectfully submits that the Examiner's rejection under 35 U.S.C. §112, first paragraph is overcome, and that claims 1-9, as well as claims 10-12, are now allowable.

Conclusion

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Please note that a new Power of Attorney and Revocation of Prior Powers of Attorney, a copy of which is herewith provided for the Examiner's convenience, was filed for this case on November 19, 2003. Therefore, please address all communications to Staas & Halsey LLP, USPTO customer No. 21171, at the address indicated below.

Respectfully submitted,

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